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In re Hiroshi Kaibara
Application No.: 09/415,668
Filed: October 12, 1999
Patent No.: 6,954,280
Issued: October 11, 2005

:
: **DECISION**
: **DISMISSING**
: **PETITION**
:

MAY 15 2009
OFFICE OF PETITIONS

This is a decision on the September 11, 2006 petition titled "Petition Under 37 CFR § 1.182 To Reprint The First Page Of U.S. Patent No. 6,954,280" ("the September 11, 2006 petition").

The September 11, 2006 petition is before the Office of Patent Legal Administration (OPLA) for consideration.

The September 11, 2006 petition is **dismissed**.

U.S. Patent No. 6,954,280 ("the '280 patent") issued on October 11, 2005, from application No. 09/415,668 ("the '668 application"). The Image File Wrapper record for the '668 application reveals, *inter alia*, the filing of:

- (i) a Part B – Fee(s) Transmittal PTOL-85 form on March 29, 2005, identifying "Canon Kabushika Kaisha" as the Name of Assignee;
- (ii) a paper titled "Request To Correct Name Of Assignee In Issue Fee Transmittal" on April 8, 2005, together with a marked-up copy of the March 29, 2005 Part B – Fee(s) Transmittal PTOL-85 form in which "Kabushika" is struck-through and "Kabushiki" is added under Name of Assignee; and
- (iii) a Request For Certificate Of Correction Under 37 C.F.R. § 1.322 on June 23, 2006, requesting the Office to delete "Canon Kabushika Kaisha, Tokyo (JP)" from the Title Page of the '280 patent and insert therefor "Canon Kabushiki Kaisha (Tokyo, JP)."

Of note, the issue fee was paid concurrently with the March 29, 2005 submission of the Part B – Fee(s) Transmittal PTOL-85 form. Also of note, the April 8, 2005 Request

states that “[a]fter paying the issue fee, Applicant reviewed the PTOL-85b, as filed, and noticed a typographical error in the name of the assignee.”

The Image File Wrapper record for the '668 application also reveals that the Office issued a Certificate of Correction on August 15, 2006, effecting the correction of the Name of Assignee from “Canon Kabushika Kaisha” to “Canon Kabushiki Kaisha.”

The September 11, 2006 petition seeks to have the first page of the '280 patent reprinted “to reflect the correct spelling of the name of the Assignee, *i.e.*, Canon Kabushiki Kaisha, Tokyo, Japan.”

A patent may be reprinted where there is a mistake on the part of the Office, and a certificate of correction is deemed inappropriate in form.¹ In the present instance, it was not a mistake on the part of the Office for the '280 patent to issue with “Canon Kabushika Kaisha” identified as the Assignee.

In this regard, 37 CFR 3.81(a) and (b) provide:

a) With payment of the issue fee: An application may issue in the name of the assignee consistent with the application's assignment where a request for such issuance is submitted with payment of the issue fee, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request must state that the document has been filed for recordation as set forth in § 3.11.

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

Also, MPEP 1481.01 provides:

The Fee(s) Transmittal Form portion (PTOL-85B) of the Notice of Allowance provides a space (item 3) for assignment data which should be completed in order to comply with 37 CFR 3.81. Unless an assignee's name and address are identified in the appropriate space for specifying the assignee, (*i.e.*, item 3 of the Fee(s) Transmittal Form PTOL-85B), the patent will issue to the applicant. **Assignment data printed on the**

¹ See: 35 U.S.C. § 254; 37 CFR 1.322(b).

patent will be based solely on the information so supplied.
[Emphasis added.]

In accordance with proper Office procedure as set forth at 37 CFR 3.81 and MPEP 1481.01, the '280 patent was printed with the assignment data supplied at item 3 of the Fee(s) Transmittal Form PTOL-85B submitted concurrently with payment of the issue fee, *i.e.*, the assignment data supplied at item 3 of the March 29, 2005 Part B – Fee(s) Transmittal PTOL-85 form.² Accordingly, it was not a mistake on the part of the Office for the '280 patent to issue with "Canon Kabushika Kaisha" identified as the Assignee. Therefore, the September 11, 2006 petition is dismissed.

Any inquiry concerning this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.



Robert A. Clarke
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

² See also: MPEP 307.